

Ordinance No. _____, Series 2003

AN ORDINANCE REPEALING THE FORMER CITY AND COUNTY ETHICS CODES AND, ENACTING A CODE OF ETHICS APPLICABLE TO THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF. [AS AMENDED],

Sponsored By: Councilman Dan Johnson, 21st District

NOW THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT [THE COUNCIL] AS FOLLOWS:

SECTION I. Sections 36.210 through 36.216 of the Jefferson County Code of Ordinances, and Section 32.400 of the former City of Louisville Code of Ordinances, are hereby repealed.

SECTION II. An Ethics Code for the Louisville/Jefferson County Metro Government is hereby enacted as follows:

SECTION III. DEFINITIONS. As used in this ordinance the following terms shall have their given definitions:

APPOINTING AUTHORITY. The Metro Mayor, or any of his/her designated subordinates, who appoint the non-elected Metro Officers covered under this ordinance.

BUSINESS ORGANIZATION. Any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any other legal entity through which business is conducted for profit.

~~***METRO AGENCY.*** Any division, department, district or agency of the Louisville/Jefferson County Metro government created by statute, or by executive order, or by or under the auspices of the Metro Council, as well as any board, commission, authority, non-stock corporation, or other entity whose members are appointed by the Metro Mayor or the Metro Council; except no public housing authority shall be covered under this ordinance.~~

METRO OFFICER. Any person elected or appointed to the office of Louisville/Jefferson County Metro Mayor, Metro Council member, County Attorney, Sheriff, County Clerk, Coroner, Surveyor or Constable; and any person appointed as a deputy mayor, cabinet secretary, chief deputy, chief administrative officer, chief of operations, agency director or department director for the Louisville Jefferson/County Metro government, or any such other similar managerial type position, as shall be determined by each elected or appointed Metro Officer designated hereinabove; and any person appointed by the Metro

Mayor or the Metro Council to a Metro Agency which has regulatory authority or has independent authority to expend public funds.

INTEREST. The ownership or control of more than eight five percent of the profits, assets, or stock of a business, ~~but shall not include the control of assets in a nonprofit entity or labor union.~~ or holding a position as a principal of any nonprofit entity including, but not limited to, a labor organization.

MEMBER OF IMMEDIATE FAMILY. A parent, sibling, spouse, or child living in the Metro Officer's household or any person who is a member of the Metro Officer's household, or a person claimed by a Metro officer or a Metro Officer's spouse as a dependent for tax purposes.

SECTION IV. STANDARDS OF CONDUCT.

(A) In furtherance of the public trust assumed by Metro Officers upon their election or appointment to public office or employment, the following standards of conduct shall be applicable:

(1) No Metro Officer or member of his/her immediate family shall have an interest in a business organization or engage in any business, transaction, or professional activity, which is in conflict with the proper discharge of such officer's duties in the public interest.

(2) No Metro Officer shall use or attempt to use his/her official position to secure unwarranted privileges or advantages for himself/herself, members of his/her immediate family or other persons.

(3) No Metro Officer shall act in his/her official capacity in any matter where such officer, a member of his/her immediate family, or a business organization in which such officer has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his/her objectivity or independence of judgement.

(4) No Metro Officer shall undertake any employment or service, compensated or not, which might reasonably be expected to prejudice such officer's independence of judgement in the exercise of his/her official duties.

(5)~~(a)~~ No Metro Officer, members of his/her immediate family, or business organization, nonprofit entity, or labor organization in which such officer has an interest, shall solicit or accept any gift, favor, loan, political contribution, service, economic opportunity, promise of future employment, or other thing of value based upon an understanding, or under circumstances from which it could reasonably be inferred, that the gift, favor, loan, contribution, service, promise, or other thing of value was given or offered :

(a) for the purpose of influencing such officer, directly or indirectly, in the discharge of his/her official duties; or

(b) for the purpose of gaining access to the Metro Officer.

~~(b) No Metro Officer shall accept, solicit or agree to accept a gift, loan, gratuity, discount, favor, service or economic opportunity of significant value or having an aggregate value of \$50.00 \$25.00 or more during a 12 month period from a person, who could be affected by business organization, nonprofit entity or labor union who has an interest in an enterprise which would could be affected by an official action or decision of the Metro Government under circumstances from which it could be reasonably inferred that the purpose of the donor is to influence the Metro Officer in the performance of his/her official duties. This provision shall likewise apply where such gifts, loans, gratuities, discounts, favors, services or opportunities are accepted, solicited, or agreed to be accepted by a member of a Metro Officer's family.~~

(c) Nothing herein shall be construed to apply to the solicitation or acceptance of contributions to the campaign of announced candidate for elective public office as governed by applicable provisions of the Kentucky Revised Statutes.

(6) No Metro Officer, however, shall be prohibited from giving or receiving:

(a) An award publicly presented in recognition of public service; or

(b) Commercially reasonable loans made in the ordinary course of the lender's business; or

(c) Reasonable hosting, including ~~travel and expenses,~~

entertainment, meals or refreshments furnished in connection with public events, appearances, or ceremonies. ~~or fact finding trips related to official duties or Metro government business.~~

(7) No Metro Officer authorized and qualified to solemnize a marriage shall be prohibited from accepting a gratuity for performing such ceremony.

(8) No Metro Officer shall use, or allow to be used, his/her public office, or any information, not generally available to the members of the public, which such officer receives or acquires in the course and by reason of his/her office, for the purpose of securing financial gain for himself/herself, any member of his/her immediate family, or any business organization with which such officer is associated.

(9) No Metro Officer or business organization in which such officer has an interest shall represent any person or party other than the local government in connection with any cause, proceeding, application or other matter pending before any county agency.

(10) No Metro Officer shall be deemed in conflict with these provisions if, by reason of such officer's participation in the enactment of any ordinance, resolution or other matter required to be voted upon, no material or monetary

gain accrues to such officer as a member of any business, profession, occupation or group, to any greater extent than any gain could reasonably be expected to accrue to any other member of such business, profession, occupation or group.

(11) No Metro Officer shall be prohibited from making an inquiry for information or providing assistance on behalf of a citizen or constituent if no fee, reward or other thing of value is promised to, given to, or accepted by, the officer or a member of his/her immediate family, whether directly or indirectly, in return therefor.

(12) Nothing in these standards of conduct shall prohibit any Metro Officer, or members of his/her immediate family, from representing himself/herself, or themselves, in negotiations or proceedings concerning his/her, or their, own interests.

SECTION V. FINANCIAL DISCLOSURE.

(A) Metro Officers shall be required to file with the Louisville/Jefferson County Metro Ethics Commission [the "commission"] a financial disclosure statement on a form provided by the Commission and signed under oath by the filer. The financial disclosure statement shall include all of the following information:

- (1) Name of filer;

(2) Current business address, business telephone number and home address of filer;

(3) Title of filer's public office or elected office sought;

(4) Occupations of filer and spouse;

(5) The name, address, and telephone number of each business organization doing business with the Louisville/Jefferson County Metro Government, or any Metro Agency, or any Metro Officer, in which the filer or any member of the filer's immediate family has:

(a) An interest of ten thousand dollars (\$10,000.00) at fair market value or ~~eight (8)~~ five (5) percent ownership interest or more; or

(b) Received compensation in excess of \$5,000 during the preceding calendar year. If the interest is the ownership of publicly traded securities, or publicly traded securities are the source of income, the interest need not be reported unless the officer or immediate family member owns ~~eight (8)~~ five (5) percent or more of the total value of such publicly traded securities.

(6) The location and zoning designation of all real property within Jefferson County, other than the filer's primary residence, in which the filer or any

members of the filer's immediate family had an interest of \$10,000 or more during the preceding calendar year and which is the subject of any condemnation proceeding, any regulatory or enforcement proceeding before the Metro Planning Commission, or any proceeding before any other administrative body or court of law wherein the Louisville/Jefferson County Metro Government or any Metro Agency or Metro Officer is an interested party.

(B) (1) The financial disclosure statement shall be filed annually by Metro Officers no later than April 1 of each year. Newly appointed Metro Officers shall be required to file their initial statement no later than 21 days after the date of appointment. Any material change in the information required by subsection (A)(5) or (6) of this Section V such as to cause previously submitted information to no longer be accurate or complete, shall be reported in writing to the Ethics Commission within ten business days after the affected Metro Officer knows, or reasonably should know of that circumstance.

(2) The term "material change" under Section V. (B)(1), above, shall include any gift, loan, gratuity, discount, favor, service or economic opportunity of significant value or having an aggregate value of ~~\$50.00~~ \$25.00 or more which the Metro Officer believes in good faith to be exempt from the application of Section IV. ~~(b)~~, above.

(3) ~~(2)~~ A Metro Officer who is in office as of the effective date of this ordinance, and who has filed a financial disclosure form with an ethics board, agency, or office under the jurisdiction of Jefferson County or the former City of Louisville within the twelve month period preceding the effective date of this ordinance, shall not be required to make a filing under this Section V until April 1, 2003, or within twenty-one days after the effective date of this ordinance, whichever date is later.

(4) ~~(3)~~ A Metro Officer who is in office as of the effective date of this ordinance, and who has not filed a financial disclosure form with an ethics board, agency, or office under the jurisdiction of Jefferson County or the former City of Louisville within the twelve month period preceding the effective date of this ordinance, shall be required to make a filing under this Section V by April 1, 2003, or within twenty-one days after the effective date of this ordinance, whichever date is earlier.

(C) When any Metro Officer, or any member of his/her immediate family, shall have any private financial interests, directly or indirectly, in any contract or matter pending before or within his/her office, or any Metro Agency, the Metro Officer shall disclose such private interest to the Commission, the governing body of the affected Metro Agency and, if the contract or matter requires formal action by the Metro Council, to the Metro Council.

(D) Any member of the Metro Council, or the County Attorney, as well as any Metro Officer who derives his/her authority from the Metro Council or from the County Attorney, or a member of any such person's immediate family, who has a private interest in any matter pending before the Metro Council shall disclose such private interest on the records of the Metro Council and shall disqualify himself/herself from participating in any debate, vote, or proceeding whatsoever relating thereto. Any matter pertaining to a Metro Officer's budget or the operation of such officer's office, agency or department, including a Metro Officer's salary, shall not be construed as a "private interest".

~~(E) Each person who files in a primary or general election as a candidate for the office of Metro Mayor or member of the Metro Council shall file a financial disclosure statement in accordance with this Section V. The statement of financial disclosure statement shall be filed with the Commission no later than 30 days following the date the person files nomination papers with the County Clerk.~~

SECTION VI. NEPOTISM.

(A) A member of the immediate family of a Metro Officer shall not be given preference for employment or appointment to a position in a Metro Agency if a more qualified person has made application for the same position.

(B) No Metro Officer shall act in his/her official capacity to hire, or caused to be hired any member of his/her immediate family at an hourly pay rate or with benefits in excess of any other employee with similar job duties, responsibilities and qualification requirements.

(C) No Metro Officer shall exercise direct management or supervisory authority over any member of his/her immediate family; nor shall any Metro Officer exercise contract management authority where any member of his/her immediate family is employed by or is under contract to any vendor who is subject to such officer's direct authority or management.

(D) After the effective date of this ordinance, a member of the immediate family of the Metro Mayor, a member of the Metro Council, County Attorney, Sheriff, County Clerk, Coroner, Surveyor and Constable shall not be employed by or appointed to a position with such elected official's office. Any members of the immediate family of the Metro Officers named in this section employed or serving in a position within the office of such Metro Officer on the effective date of this ordinance shall be excluded from the prohibition contained in this section.

SECTION VII. LOUISVILLE/ JEFFERSON COUNTY METRO GOVERNMENT ETHICS COMMISSION.

(A) (1) A Louisville/Jefferson County Metro Government Ethics Commission (hereafter, the "Ethics Commission") is hereby created which shall be responsible for the enforcement and administration of the Code of Ethics adopted in this ordinance in the manner set forth in this ordinance. When requested by a Metro Officer ~~or a Metro Agency~~, the Ethics Commission shall issue an advisory opinion concerning acts or activities covered by this ordinance. Such opinions shall be public and shall not disclose the identity of persons associated with the opinion. Confidential opinions may be issued, if requested by the Metro Officer or Metro Agency submitting the question only if the subject is exempt from disclosure pursuant to KRS 61.878.

(B) (1) The investigation and determination of whether a ~~non-elected~~ Metro Officer has committed any violation of this ordinance ~~other than the failure to file a complete financial disclosure statement as provided in Section V of this ordinance~~, shall be the responsibility of the ~~appointing authority~~ Ethics Commission.

~~—— (2) The investigation and determination of whether an elected Metro Officer has committed any violation of this ordinance, other than the failure to file a complete financial disclosure statement as provided in Section V of this ordinance, shall be the responsibility of the Metro Council.~~

~~(3)~~ (2) When requested by an appointing authority, the Ethics Commission shall have authority to issue an opinion concerning whether or not an act or

activities undertaken by a Metro Officer constitute a violation of this ordinance.

The Ethics Commission shall have ~~no~~ authority to adjudicate factual issues, ~~but~~ ~~shall be limited~~ and to determine ~~determining~~ whether the alleged act or activity ~~would~~ constitutes a violation of this ordinance. ~~if determined by the appointing authority that the same had occurred.~~

(C) The Ethics Commission shall consist of seven members appointed by the Metro Mayor and approved by the Metro Council. Ethics Commission members shall not be persons who are Metro Officers or employees of the Metro Government, and they shall be chosen by virtue of their known and consistent reputation for integrity and their knowledge of local government affairs. No two Ethics Commission members shall reside in the same Metro Council district. A member of the Ethics Commission shall serve for a term of three years or until his/her successor is appointed. Ethics Commission members may be reappointed for one consecutive term and shall not be eligible for reappointment until one year after the expiration of his/her last term. An Ethics Commission member may be removed for reasons of malfeasance or neglect of duty by the Metro Council. Vacancies, whether by death, resignation, or removal, shall be filled in the same manner as original appointments. Ethics Commission members shall serve without compensation. No more than three of the members of the Ethics Commission shall be of the same political party, and at least one member shall be a registered Independent.

(D) Within 60 days of the effective date of this ordinance, the Ethics Commission shall draft and submit to the Metro Council its rules and regulations for the administration of this ordinance and the conduct of its meetings, including, but not limited, to maintenance of financial disclosure statements, issuance of opinions and imposition of penalties for violations of this code. If the Metro Council does not disapprove of the Ethics Commission's rules and regulations within 45 days after submission to the Council, such rules and regulations shall go into effect on the 46th day after submission.

(E) There is hereby created the position of Legal Counsel to the Ethics Commission. The Ethics Commission may employ the Legal Counsel on contract or may designate the Jefferson County Attorney, or a member of his/her staff as Legal Counsel; provided that if Legal Counsel is employed under contract, neither employed counsel nor any attorney with whom employed counsel has any affiliation or association shall be employed or under contract in any capacity with Metro Government.

(F) The Metro Human Resources Department shall provide reasonable and necessary staff support for the operation of the Ethics Commission.

(G) The Ethics Commission shall be the official custodian of financial

disclosure statements to be filed under this ordinance.

(H) (1) The Ethics Commission shall conduct at least one annual training and review session open and available to all Metro Officers, and such other training and review activities as shall from time to time be requested by the Metro Mayor or the Metro Council.

(2) All Metro Officers in office on the effective date of this ordinance shall be required to attend one training session conducted by the Ethics Commission within twelve months of the effective date of this ordinance and at least once every twenty-four months thereafter. All Metro Officers elected or appointed after the effective date of this ordinance shall be required to attend one training session conducted by the Ethics Commission within twelve months of his/her election or appointment, and at least once every twenty-four months thereafter.

SECTION VIII. COMPLAINTS

Complaints against Metro Officers which allege violations of this ordinance may be filed by any person ~~either~~ with the Ethics Commission. ~~or~~

~~(1) in the case of a non-elected Metro Officer, with his/her appointing authority; or~~

~~(2) in the case of an elected Metro Officer, with the Metro Council.~~

SECTION IX. PROTECTION AGAINST REPRISAL.

(A) No Metro Officer or any other employee of the Metro Government shall subject to reprisal, or directly or indirectly use, or threaten to use, an official authority or influence, in any manner whatsoever, which tends to discourage, restrain, depress, dissuade, deter, prevent, interfere with, coerce, or discriminate against any officer or employee who in good faith reports, discloses, divulges, or otherwise brings to the attention of the Ethics Commission, any appointing authority, any law enforcement agency or its employees, or any other appropriate body or authority, any facts or information relative to an actual or suspected violation of this ordinance or any law, statute, executive order, administrative regulation, mandate, rule, or ordinance of the United States, the Commonwealth of Kentucky, or the Louisville/Jefferson County Metro government, or any facts or information relative to actual or suspected mismanagement, waste, fraud, abuse of authority, or a substantial and specific danger to public health or safety. No Metro Officer or Metro Government employee shall be required to give notice of any kind prior to making such a report, disclosure, or divulgence.

(B) No Metro Officer or any other employee of the Metro Government shall subject to reprisal or discriminate against, or use any official authority or

influence to cause reprisal or discrimination by others against, any person who supports, aids, or substantiates any officer or employee who makes public any wrongdoing set forth in subsection (A) of this Section IX.

SECTION X. ENFORCEMENT; PENALTY.

~~(A) After written notice of a failure to timely file any statement of financial disclosure under this ordinance, any Metro Officer who fails to file within ten business days of such notice may be fined by the Ethics Commission a sum not less than \$25.00 nor more than \$500.00.~~

~~(B) Upon a determination by the Ethics Commission of a violation of any of the provisions of this ordinance by the Mayor or a member of the Metro Council, the Ethics Commission shall refer the matter to the Metro Council for action pursuant to K.R.S. 67C.143.~~

~~(C) (B)~~ (A) Upon a determination by the Ethics Commission of a violation of any of the provisions of this ordinance by ~~an elected~~ a Metro Officer, ~~other than the Mayor or a member of the Metro Council,~~ the Ethics Commission may impose the following penalties:

(1) For any unintentional violation which has been voluntarily corrected by the officer prior to any action by the Ethics Commission, a notice of mootness shall be issued by the Ethics Commission;

(2) For any violation which is determined by the Ethics Commission to have been unintentional or the result of a good faith misinterpretation of the requirements of this ordinance, a letter of technical violation or a letter of reprimand shall be issued by the Ethics Commission as the Ethics Commission deems appropriate;

(3) For any intentional violation which is acknowledged and rectified by the officer prior to any action by the Ethics Commission, a letter of public reprimand may be issued by the Ethics Commission;

(4) For any intentional violation a letter of formal censure may be issued by the Ethics Commission.

(B) In addition to any of the penalties set forth under Section XI. (A), an intentional violation of this ordinance shall be a misdemeanor for which a Metro Officer may be fined by the Ethics Commission a sum not less than \$25.00 nor more than \$500.00.

(C) In addition to any of the penalties set forth under Sections XI. (A) and (B), an intentional violation of this ordinance may:

(1) in the case of a non-elected Metro Officer, be grounds for other sanctions or actions by his/her appointing authority; or

(2) in the case of an elected Metro Officer, be grounds for removal under K.R.S. 67C.143; or

(3) in the case of a Metro Council member, be grounds for other sanctions or actions by the Metro Council under its Rules, or otherwise.

~~(D) Upon a determination by the Ethics Commission of a violation of any of the provisions of this ordinance by a non-elected Metro Officer, the Ethics Commission shall refer the matter to the officer's appointing authority for action.~~

SECTION XI. APPEALS

A final opinion, order, finding, or adjudication issued by the Ethics Commission under Section VII. (B)(2), or otherwise, that a Metro Officer has violated any of the provisions of this ordinance may be appealed to the Jefferson District Court or the Jefferson Circuit Court by the Metro Officer affected by the opinion, order, finding, or adjudication.

Section XI XII. All files, records, and documents maintained by, or in the possession of any ethics board, agency, or office under the jurisdiction of Jefferson County or the former City of Louisville shall be delivered to the Ethics Commission and thereafter maintained by the Ethics Commission.

Section XII XIII. This Ordinance shall be effective upon its passage and approval.

O-32-2-03

Kathleen J. Herron
Metro Council Clerk

Ron Weston
President of the Council

Jerry E. Abramson
Mayor

Approved: _____
Date

APPROVED AS TO FORM AND LEGALITY:

Irv Maze
Jefferson County Attorney

By: _____

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